Claims 1 and 15 distinguish over Brown *et al.*

Independent claims 1 and 15 were rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,972,461 issued to Brown *et al.*. Applicant respectfully submits that independent claims 1 and 15 patentably distinguish over Brown *et al.* and requests that the Examiner pass these claims to allowance.

Brown *et al.* teaches a call message delivery system that provides voice messaging services, which utilize a billing code to establish a status memory location for storing delivery status of a voice message. See, column 1, lines 53-57. As shown in FIG. 4, the disclosed method of Brown *et al.* secures an outgoing line and an available call message delivery system attendant in step 402, outpulses a call in step 403, and has the attendant monitor the call progress in step 404. According to the disclosure of Brown *et al.*, if the call is answered by a recipient, the attendant can either play a prerecorded message and can drop off of the call 409, column 12, lines 62-68, or the attendant can introduce or supervise the delivery of the message 441, column 13, lines 45-55. Brown *et al.* further discloses that the recipient in some instances may be an answering machine rather than a person. See, column 15, line 62 to column, 16, line 6.

In contrast to Brown *et al.*, Applicant claims an answering machine detection method (independent claim 1) and an apparatus for detecting an answering machine (independent claim 15) for a voice message delivery system. As recited in both claims 1 and 15, each of the claimed method and apparatus detects whether a telephone line pick-up was by an existing answering machine or by a live Recipient.

Unlike the call message delivery system of Brown *et al.* which merely plays a message for a recipient person or answering machine, the instant invention detects (emphasis added) whether the telephone pick-up was by an existing answering machine or a live Recipient.

Since Brown *et al.* fails to teach or suggest detecting whether the telephone pick-up was by existing answering machine or a live Recipient, as recited in claims 1 and 15,

Applicant respectfully requests that the Examiner reconsider and withdraw any rejections of claims 1 and 15 based on Brown *et al.*.

Hwang *Does Not* Remedy the Defects of Brown *et al.*

Claims 2-13 and 16-20 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Brown *et al.* in view of U.S. Patent No. 6,181,779 issued to Hwang. Applicant respectfully traverses this rejection.

More particularly, as described above, Brown *et al.* fails to teach or suggest all of the recited features of Applicant's claims 1 and 15. For example, Brown *et al.* fails to teach or suggest detecting whether a telephone pick-up was by an existing answering machine or by a live Recipient. Applicant respectfully submits that Hwang does not teach nor suggest an apparatus or a method that detects whether a telephone pick-up was by an existing answering machine or by a live Recipient. Thus, the teachings of Hwang fail to remedy the defects of Brown *et al.*.

Hwang teaches a rationalized automated answering machine that distinguishes each sentence interval in the Out Going Message by using a microcomputer and records space positions between adjacent sentences. See, column 1, lines 38-42. As further disclosed by Hwang, when the rationalized automated answering machine receives a call and plays the Out Going Message, the sound of a caller may be monitored simultaneously to allow the caller to record a message without having to listen to the entire Out Going Message, thereby preventing caller irritation and impatience. See, column 1, lines 42-52. However, Hwang fails to teach detecting whether the telephone pickup was by an existing answering machine or by a live recipient as claimed by Applicant in claims 1 and 15, because Hwang teaches a rationalized automated answering machine that does not call a recipient. Thus, Hwang could not possibly teach detecting whether the telephone pickup was by an existing answering machine or by a live Recipient, as claimed by Applicant. Since Hwang fails to remedy the defects of Brown *et al.*, Applicant respectfully requests

the Examiner to withdraw the §103 rejection of claims 2-13 and 16-20 based on the combination of Brown *et al.* and Hwang.

The Proposed Combination of Brown *et al.* and Hwang is Improper

According to M.P.E.P §2143.01, the prior art must suggest the desirability of Applicant's claimed invention. Therefore, the cited references must explicitly or implicitly teach the combination in order for the §103 rejection to be proper. In contrast to suggesting the desirability of the combination, Brown *et al.* and Hwang teach away from the asserted combination. For example, the call message delivery system of Brown *et al.* allows a user to telephone one or more recipients with a prerecorded or attendant delivered message. The call message delivery system of Brown *et al.* also records the status of the message (i.e., delivered, not delivered, etc.) and allows the user to access the delivery status utilizing a billing code. In contrast to Brown *et al.*, Hwang teaches a rationalized automated answering machine that allows a caller to listen to an entire outgoing message or just a portion thereof prior to leaving a message. The rationalized automated answering machine does not telephone the callers. Instead, Hwang's machine allows callers, individuals who call the rationalized answering machine, flexibility in leaving a message. Thus, Hwang's rational automated answering machine has no need for the attendant to place calls to recipients or for a system that records the delivery status of a message as taught by Brown *et al.*. Similarly, the call message delivery system of Brown *et al.*, which is designed to deliver messages to recipients, has no need for a rationalized answering machine that allows callers to either listen to an entire outgoing message or just a portion thereof prior to leaving a message. Thus, any combination of Brown *et al.* with Hwang is improper under M.P.E.P. §2143.01.

Additionally, according to M.P.E.P. §2143.01, a prima facie case of obviousness is not met when the proposed combination of cited art changes the principal of operation of one or more of the cited references. As discussed above, the principle operation of the call message delivery system of Brown *et al.* is to telephone recipients to deliver messages.

Whereas, in direct contrast to Brown *et al.*, the principle operation of Hwang is to receive incoming messages. Since, the proposed combination of the devices taught by Brown *et al.* and Hwang changes the principle of operation of both of these devices, Applicant respectfully requests the Examiner to remove the §103 rejection based on the combination of Brown *et al.* and Hwang.

CONCLUSION

In view of the above amendments and remarks, Applicant submits that claims 1-20 are in condition for allowance and requests that the Examiner pass this application to allowance.

If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Applicant believes that no fees are necessitated by the present Response. However, in the event that any fees are due, the Commissioner is hereby authorized to charge any such fee to Attorney's Deposit Account No. 20-0531.

Respectfully submitted,

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